

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATHALY CORTEZ, individually and on behalf of similarly situated individuals,	§	
	§	
	§	
Plaintiff	§	
	§	
	§	
v.	§	CIVIL ACTION NO. 4:21-cv-03991
	§	
	§	
CASA DO BRASIL, LLC,	§	
	§	
Defendant	§	

DECLARATION OF RAQUEL BELNAP

1. "My name is Raquel Belnap. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.
2. "I am presently employed by Casa do Brasil, LLC (the "Company") as the Manager of Organizational and Financial Processes and have been employed by the Company since September 2018.
3. "Attached hereto as Exhibits D-1, D-2 and D-3 respectively are a "Notice to Tipped Employees," "Tip Reporting Acknowledgment" and "Tip-Pooling Agreement" signed by Mario Candiani. These records are kept by the Company in the regular course of business. It was within the regular course of business of the Company for an employee or representative of the Company, with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such records; and the records were made at or near the time or reasonably soon thereafter. The records attached hereto are an exact duplicate of the originals.
4. "The Company uses a Point of Sales ("POS") system to record employees' hours worked and record customer orders, bills related to those orders, and customer payments, including tips. While the POS system records all payments by customers, including credit card tips, the POS system does not calculate the credit card tips that should be paid to each employee as a result of the tip pool.
5. "To calculate the amount of tips to be paid to each employee within the tip pool, the Company uses a software system designed to make these calculations. From May 1, 2018 to October 2020, the Company used a software called Interconnect. From October 2020 to July 2021, the Company used Suntek. From July 2021 to the present, the Company has used Gratuity Solutions. These software systems import the credit card tip data from the POS system and then calculate the amount

of tips owed to each tipped employee that worked on the shift in which the tips were earned. The result of the tip pool calculations is then input by me into the payroll system, which generates each employee's paystub.

6. "The software systems used by the Company calculate the tips owed to each employee based upon a tip pool formula entered into the software by the Company. Currently, the formula provides 100% of a share to each Server, Bartender and Gaucho on the shift, 80% of a share to each CSR on the shift and 20% of a share to each Busser on the shift. Prior to July, 2021, the formula used to calculate credit card tips owed to each employee based upon the tip pool provided 6% of the total amount of credit card tips from the shift to Bussers, which amount was divided among the Bussers on the shift; of the remaining 94% of the credit card tips, 100% of a share was provided to each Server, Bartender and Gaucho on the shift and 80% of a share was provided to each CSR on the shift.
7. "I have reviewed Exhibits 1A and 1B to Plaintiffs' Motion to Authorize Notice to Potential Plaintiff ("Plaintiffs' Motion"). Exhibit 1A is the "Employee Timecard" from the POS system. Exhibit 1A also identifies the "Non-Cash Tips" that were provided by customers using credit cards for the tables opened and served by Ms. Cortez on the dates identified. Because the Company uses a different software system to calculate the credit card tips to be paid to each employee as a result of the tip pool and the Company's formula for distributing the credit card tips in the tip pool, the "Non-Cash Tips" identified on Exhibit 1A are not the credit card tips paid to Ms. Cortez. Exhibit 1B is a report from Interconnect. Exhibit 1B identifies the "Non Cash Share" paid to Ms. Cortez as the credit card tips calculated by Interconnect based on the tip pool for the dates identified.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 10/11/2022


Raquel Belnap

EXHIBIT D-1



NOTICE TO TIPPED EMPLOYEES

Welcome to Casa Do Brasil! Casa Do Brasil employs various employees it considers “tipped employees,” such as servers, bartenders, gauchos, customer service representatives, etc. The following guidelines apply to tipped employees:

- Your position is that of a tipped employee, meaning that you can earn tips in addition to your hourly cash wage.
- You will receive a cash wage of at least \$2.13 per hour. Depending upon how long you have been employed with us and your experience, you may be paid more than \$2.13 per hour, but you will not be paid less.
- Casa Do Brasil will always ensure that you are paid at least minimum wage (and overtime, when due). Casa Do Brasil will claim up to \$5.12 as a tip credit for every hour you work (the difference between your hourly wage of \$2.13 per hour and the federal minimum wage of \$7.25 per hour).
- The tip credit taken by Casa Do Brasil cannot be greater than the value of tips you receive. So, if you only make \$3.12 an hour in tips one week, plus a cash wage of \$2.13/hour, Casa Do Brasil will pay you an additional \$2.00 per hour for that week.
- Casa Do Brasil operates a tip-pooling arrangement limited to employees who customarily and regularly receive tips. You are required to contribute 100% of the tips you receive to the tip pool. If the amount of tips you receive from the tip pool is not sufficient to cover the tip credit, Casa Do Brasil will make up the difference.
- This agreement will not apply to any employee not informed of the requirements set forth in the **Fair Labor Standards Act's** regulations (29 CFR 531.59 and 531.60), verbally or in writing, which are set forth above.

Please sign and date this notice indicating that you understand it, and return it to your manager. Contact the general manager if you have any questions. Thank you.

Mario Candiani
Employee Name (Print)


Employee's Signature

11/17/22
Date

EXHIBIT D-2



Tip Reporting Acknowledgement

Understanding tax laws can be difficult. This acknowledgement form is designed to help you understand your responsibilities for tip reporting. These rules apply to any tips you receive, either from a customer or another employee.

There are three key facts to remember:

Tax laws require you to keep records of all of your tips, tip-outs and tip-sharing.

Tax laws require you to report 100% of your tips to your employer (unless they total less than \$20 for a month).

Tipped employees are required to keep evidence sufficient to establish their tip income, such as DAILY records of:

The amount of cash tips received directly from customers and other employee's

The amount of tips received on charge receipts * *Tips paid out to other employees and their names*

You can use IRS form 4070-A, *Employee's Daily Record of Tips*, to keep records of your cash tips, charge tips, and the tips you pay to the other employees and their names. This form is included in IRS Publication 1244, which can be obtained from the IRS website at <http://www.irs.gov/formspubs> or ordered from the IRS by calling 1-800-829-3676.

Reporting your tips can benefit YOU:

- * Qualifying for credit or loans can be easier if you have higher reported income.
- * Your Social Security benefits will increase when you retire.
- * Keeping records and reporting all your tips can help you avoid an IRS audit, or defend your tax returns if you are audited.
- * Failure to report tips to your employer can result in the IRS imposing tax penalties on you.

Procedures for Tip Reporting

Report cash tips upon completion of your shift when prompted prior to signing out.

Credit card tips are reported with each bi-weekly payroll cycle.

Employee Tip Reporting Acknowledgment

I have read, or had read to me, the "Tip Reporting Acknowledgment" Document.

I have received training regarding my company's procedures in reporting tips to the company.

I understand that failure to follow company procedures may result in disciplinary action.

Employee Name: Mario Candiani

Employee Signature: Mario Date: 11/03/22

Manager Signature: Wisee Mora Date: 3/11/22

EXHIBIT D-3

**TIP-POOLING AGREEMENT**

During my employment with Casa Do Brasil, I agree to participate in the Tip Pooling Agreement. Casa Do Brasil is a team-oriented restaurant and the Tip Pooling Agreement reflects that fact. All employees who participate in the tip pool contribute to the dining and service experience of every guest.

During lunch and dinner hours the total tips will be divided by share relative to each other. The total tips will be divided to ensure that the tips of the Busser are 20% that of a Wait Staff Member, and that the Customer Service Representative tips are 80% of the Wait Staff Member. In summary, the total tips per share of a whole will be: 20%, 100%, and 80%, for the Bussers, Wait Staff Members, and Customers Service Representatives respectively.

Casa Do Brasil will seek to pay its tipped employees any credit card tips due in the employee's next paycheck but will always comply with state and federal law in paying its tipped employees any tips due.

Cash Tips

Cash tips shall be immediately remitted to the cash tip box. Failure to immediately remit all cash tips to the tip box will be grounds for disciplinary action up to and including termination. All cash tips will be calculated based on the tenure and pro-rata formulas described above. Casa Do Brasil will seek to pay its tipped employees any cash tips due at the employee's next scheduled shift at the restaurant but will always comply with state and federal law in paying its tipped employees any tips due.

Additional Information

It is not the intention of Casa Do Brasil to keep any tip income; Casa Do Brasil merely intends to collect all the tips so that they may be properly allocated among employees who are eligible to share in the tip pool.

The Tip Pooling Agreement is not a contract of employment. Your employment relationship with Casa Do Brasil is voluntary and is subject to termination by either yourself or Casa Do Brasil, with or without cause, at any time either party believes such action is appropriate.

Mario Condori
Employee Name (Print) 21/3/22
Date


Employee's Signature

EXAMPLE 1 (TIP DISTRIBUTION BASED ON TENURE):

\$1,000 in tips to be shared equally amongst 9 servers and 1 Customer Service Representative:

- \$102.04 to Servers (100% of a share)
- \$81 to Customer Service Representative (80% of a share)